

CHAPTER 19-11

CONSULTATION WITH READS OF STATS AND LOCAL GOVERNMENTS:  
PROPOSED REGULATIONS, INTERAGENCY AGREEMENTS, AND ORGANIZATION **CHANGES**

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19-11-00 **PURPOSE**

This chapter describes the policies and general practices of the Department to be followed in complying with the **Government-**wide policy of affording heads of State and local governments a reasonable opportunity ~~to~~ comment on significant proposed Federal regulations, interagency agreements, and organization changes. The Government-wide policy is prescribed by Office of Management and **Budget** Circular NO. **A-85**. (Chapter **3-20**, General Administration Manual, "Development **and** Processing of Regulations and Notices of **Proposed** Rule Making," describes the specific procedures required in the development, submission and processing of regulations to assure adequate **participation** by State and local **governments.**)

19-11-10 **DEFINITION OF REGULATIONS**

The word "Regulations," as used in this chapter, includes all **significant** proposed Federal rules, regulations, standards, procedures, **and** guidelines, **and** all amendments thereto, which are applicable to Federal assistance programs and which are to be issued by the Secretary or an official of an operating **agency** that administers Federal assistance programs. Federal assistance is construed here to be-primarily grant-in-aid to State **and local governments** but could include other types of assistance which require issuance of guidance or procedures to State **and local governments.**

19-11-20 **POLICIES**

Operating agencies Will be guided, to the **maximum** practical extent **consistent** with Federal **laws**, by the following policies in developing regulations for administering programs of **assistance to Stateand local** governments.

- a. The central coordinating role **of heads** of State and **local governments**, including their role of initiating and **developing State and local programs**, **will be** supported and strengthened.

(19-11-20 continued)

- b. **Department Regulations should not encumber the heads of State and local governments in providing effective organizational and administrative arrangements and in developing planning, budgetary, and fiscal procedures responsive to needs.**
- c. **Duplication of reporting requirements and controls which are established by State and local governments will be avoided, and operating agencies should rely whenever possible on internal or independent audits performed at the State or local level,**
- d. **Except as may be required by law or special circumstances, operating agency regulations dealing with matters of common concern to other operating agencies of the Department (e.g., allowable costs, definitions of like terms, and procedures and information needed for determining eligibility in like cases) will be mutually consistent.**

**19-11-30 PRIOR CONSULTATION**

- a. **In addition to the formal clearance of the regulations prior to publication as described in 19-11-40 below, it is important that operating agency personnel actively pursue consultation with state and local governments well in advance of the stage of formulating formal regulations.**  
Accordingly, during the **planning and developmental stage**, the concerned agency will **provide to heads of affected State and local governments through the Department Regulations Officer and the Advisory Commission on Intergovernmental Relations:**
  - 1. **Any discussion material, such as initial planning documents, outlines of issues and proposed action, on the proposed regulations sent to program counterparts in State and local governments or to other groups outside the Department.**
  - 2. **Invitations to any meetings held with State and local program counterparts or others to discuss the proposed regulations.**
- b. **In addition, consultation may be required by law with counterpart organizations, e.g., in public health programs, the Conference of State and Territorial Health Officers, and in the latter instance, operating agencies should whenever feasible provide for concurrent clearance with the Advisory Commission on Intergovernmental Relations through the Department Regulations officer.**

19-11-40 CLEARANCE OF PROPOSED DOCUMENTS

- A. To make certain that vital Department assistance programs are made workable at the point of impact, the Department will afford heads of State and local governments, through the Advisory Commission on **Intergovernmental** Relations (**ACIR**) an opportunity to comment on Department regulations prior to their issuance.
- B. The Department Regulations Officer, Office of the Assistant Secretary for Administration, is responsible for submitting and clearing proposed regulations with **ACIR**. Whenever an operating agency plans to issue a regulation (as defined in Section 19-11-10), 25 copies of both the complete text and a summary of the proposed regulations shall be forwarded to the Department Regulations Officer. The summary should focus on those **provisions** which would affect State and local governments. The submission should include a designation of a liaison officer who will be prepared to provide such additional background information or explanatory material as **ACIR** may require. (Chapter 3-20, General Administration Manual, "Development and Processing of Regulations and Notices of Proposed Rule Making," describes the procedures to be followed in the development, submission and processing of regulations requiring clearance with **ACIR**.)
- C. All proposed regulations need not automatically be submitted to **ACIR**. No purpose would be served by creating unnecessary paper work. The Department Regulations Officer will be selective in determining which substantive and administrative regulations are significant enough to be processed through the consultation arrangements. For instance, if a regulation is being liberalized at the request of a State (e.g., more **time** is permitted for preparing and submitting certain **information**), it may not be necessary to submit the proposed regulatory issuance to **ACIR** for formal review. This will be determined in each case by the Department **Regulations** Officer, where appropriate through **informal** consultation with **ACIR**.
- D. In addition to new **regulations**, operating **agency** personnel should give constructive consideration to requests from heads of State **and** local governments to review and revise regulations already in effect.

19-11-50 INTERAGENCY AGREEMENTS AND ORGANIZATION CHANGES

Major **interagency agreements** and organization changes shall be referred to **ACIR** for consultation, in accordance with the same procedures outlined for the clearance of **regulations** (Section 19-11-40). Only those actions which will have a significant effect on State or local **governments** are subject to this requirement. Questions on application of this policy should be referred to the Department Regulations Officer.

19-11-60 APPLICABILITY TO THE OFFICE OF THE SECRETARY

The foregoing provisions of this Chapter, requiring and specifying the policies and procedures with respect to **prior consultation** with heads of State and local governments, are applicable to and shall be adhered to by officials of the Office of the Secretary in the development of **regulations** (as defined in Section 19-11-10) which will establish standards, policies or procedures binding upon the operating agencies in the conduct of their programs. Where such proposed standards, policies or procedures are of **appropriate concern** to heads of State and local governments within the scope of Office of Management and Budget Circular No. A-85, such **consultation** prior to promulgation of such actions will be **more timely and meaningful than** at a later time when the operating agencies would have to propose and seek such consultation on regulations implementing such previously promulgated **standards, policies and procedures**.